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12 United States of America

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14 IN THE UNITED STATES DISTRICT COURT  
15 EASTERN DISTRICT OF CALIFORNIA

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18 UNITED STATES OF AMERICA,  
19 Plaintiff,  
20 v.  
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22 XAVIER ANTHONY RINCON  
23 A/K/A JAVIER ANTHONY RINCON,  
24 DEFENDANT.

19 CASE NO. 1:22-CR-00081-JLT-SKO  
20 STIPULATION REGARDING EXCLUDABLE  
21 TIME PERIODS UNDER SPEEDY TRIAL ACT;  
22 ORDER  
23 CURRENT DATE: August 16, 2023  
24 TIME: 1:00 p.m.  
COURT: Hon. Sheila K. Oberto

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28 **STIPULATION**

1. By previous order, this matter was set for status on August 16, 2023.
2. By this stipulation, defendant now moves to continue the status conference until September 6, 2023, and to exclude time between August 16, 2023, and September 6, 2023, under 18 U.S.C. § 3161(h)(7)(A), B(iv).
3. The parties agree and stipulate, and request that the Court find the following:
  - a) The government asserts the discovery has been provided to counsel. The government is aware of its ongoing discovery obligation.
  - b) The parties are currently in plea negotiations. Undersigned AUSA has taken the case over after the previously assigned AUSA left the office, and has engaged in substantive plea negotiations with defense. There are ongoing discussions regarding legal issues that need to be addressed before a plea agreement can be reached.

c) Counsel for defendant desires additional time to consult with his client, to review the current charges, to conduct investigation and research related to the charges, to review and/or copy discovery for this matter, to discuss potential resolutions with their client, to investigate matters related to sentencing and plea resolution and to discuss those with the government, and to prepare pretrial motions, and to otherwise prepare for trial.

d) Counsel for defendant believes that failure to grant the above-requested continuance would deny them the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

e) The government does not object to the continuance.

f) Based on the above-stated findings, the ends of justice served by continuing the case as requested outweigh the interest of the public and the defendants in a trial within the original date prescribed by the Speedy Trial Act.

g) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which trial must commence, the time period of August 16, 2023 to September 6, 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv), because it results from a continuance granted by the Court at defendants' request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

4. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial must commence.

## IT IS SO STIPULATED.

Dated: : August 11, 2023

PHILLIP A. TALBERT  
United States Attorney

/s/ KIMBERLY A. SANCHEZ  
KIMBERLY A. SANCHEZ  
Assistant United States Attorney

1 Dated: August 11, 2023

/s/ JEFFREY T. HAMMERSCHMIDT  
2 JEFFREY T. HAMMERSCHMIDT  
3 Counsel for Defendant

4 **ORDER**

5 IT IS SO ORDERED.

6 Dated: 8/11/2023

*Sheila K. Oberto*

7 Hon. Sheila K. Oberto  
8 U.S. Magistrate Judge

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